IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

WP(C).No. 18438 of 2007(T)

PETITIONER:

A.MARIA GORETTI, AGED 54 YEARS,
W/O S.ANDREWS, HIGH SCHOOL ASSISTANT(MATHS),
GOVERNMENT HIGH SCHOOL, ANAKKARA,
RESIDING AT PUTHEN KARAYIL, ROSAPOOKANDAM,
KUMILY, IDUKKI.

BY ADV. SRI.MILLU DANDAPANI

RESPONDENTS:

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1. STATE OF KERALA, REPRESENTED BY THE
SECRETARY, DEPARTMENT OF GENERAL EDUCATION,
GOVERNMENT SECRETARIAT, TRIVANDRUM-695001.

2. THE DISTRICT EDUCATIONAL OFFICER,
IDUKKI.

3. THE DEPUTY DIRECTOR OF EDUCATION,
IDUKKI.

4. THE DIRECTOR OF PUBLIC INSTRUCTIONS,
TRIVANDRUM.

BY GOVT.PLEADER SRI.A.J.VARGHESE.

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

A.K. Basheer, J.

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W.P(C) No.18438 of 2007

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Dated this the 10th day of July, 2007.

J U D G M E N T

Petitioner who is working as a High School Assistant (Mathematics) was ordered to be transferred from Govt. High School, Anakkara to Govt. High School at Marayur. By the same order, a copy of which is on record as Ext.P3, Smt.Syamala, petitioner's colleague at Anakkara was also shifted from the said school to the school at Pathinaramkhandom.

2. It is seen from Ext.P3 order that the above twin transfer was effected by the Department to facilitate a congenial atmosphere in the institution concerned. The order reveals that the Department had to resort to this drastic step in view of several complaints received against the two teachers.

3. Petitioner has challenged the above order of transfer on several grounds. It is primarily contended that she has been ordered to be transferred on the basis of the so called complaints against her without affording any opportunity to be heard. She further contends that all the complaints made against her are totally baseless.

4. Anyhow I do not propose to deal with any of the above contentions at this stage in view of the limited prayer made by the learned counsel for the petitioner at the Bar.

5. It is on record that petitioner has assumed charge at Marayur. Similarly, the other teacher viz., Smt.Syamala has also assumed charge at Pathinaramkhandom. Therefore I am of the view that it should be left to the Department to consider the grievance of the petitioner as highlighted by her in Ext.P4, with an open mind.

6. There appears to be some force in the contention raised by the petitioner that the order of transfer, which was punitive to some extent, was passed without hearing her. Natural justice demanded that petitioner and the other teacher were heard. Anyhow only the petitioner has come before this Court now. Therefore I am satisfied that petitioner is atleast entitled to get an opportunity of hearing with regard to her request for a transfer back to Anakkara, particularly for the reason that she is due to retire in 2009. It is also brought to my notice that she is a chronic arthritis patient. Her husband suffers from some cardiac ailment. I hasten to add that I am referring to this aspect only to stress the fact that the request of the petitioner to shift her to Anakkara requires a sympathetic consideration.

7. In the above facts and circumstances the writ petition is disposed of with a direction to respondent No.4 to consider and pass orders on Ext.P4 strictly on its merit and in accordance with law, as expeditiously as possible, at any rate within six weeks from the date of receipt of a copy of this judgment. Needless to mention that the petitioner and any other teacher who is likely to be affected by any order that maybe passed by respondent No.4 shall be afforded sufficient opportunity to be heard before any decision is taken in the matter.

Petitioner shall produce a certified copy of the judgment along with a copy of the writ petition before respondent No.4 for compliance.

A.K. Basheer
Judge.

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